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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,920	10/20/2000	Robert O. Banker	A-6685	8465
7590	07/21/2009		EXAMINER	
Scientific-Atlanta, Inc. Intellectual Property Dept. MS 4.3.510 5030 Sugarloaf Parkway Lawrenceville, GA 30044			IDOWU, OLUGBENGA O	
		ART UNIT	PAPER NUMBER	
		2425		
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		07/21/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT O. BANKER, DEAN F. JERDING, ARTURO A. RODRIGUEZ,
VALERIE GREW GUTKNECHT, BINDU CRANDALL,
ROBERT T. VAN ORDEN, JEFF LEES and JEROME NADEL

Application No. 09/692,920
Technology Center: 2400

Mailed: July 21, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal*.

This application was received electronically at the Board of Patent Appeals and Interferences on July 20, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

APPEAL BRIEF/GROUNDS OF REJECTION

On December 8, 2008, appellants filed an Appeal Brief. A review of the file reveals that under the Grounds of Rejection to be Reviewed on Appeal, states that Claims 1-5, 32, 34-35, 38-45, 52-55 and 57-59 stand are rejected under 35 U.S.C. § 103(a)....., which is not consistent as amended in the Amendment filed October 3, 2007. The amendment filed April 17, 2008 and the statement under “Status of Claims” in the Appeal Brief filed December 8, 2008, canceled claim 41. Appropriate correction is required, for clarification of the record.

A Supplemental Appeal Brief is required for the Grounds of Rejection to be Reviewed on Appeal.

EXAMINER’S ANSWER/GROUNDS OF REJECTION

Also, the Examiner’s Answer mailed March 17, 2009 is defective, since it states under the Grounds of Rejection that Claims 1-5, 32, 34-35, 38-45, 52-55 and 57-59 stand are rejected under 35 U.S.C. § 103(a)....., which is not consistent as amended in the Amendment filed October 3, 2007. The amendment filed April 17, 2008 and the statement under “Status of Claims” in the Appeal Brief filed December 8, 2008, canceled claim 41. . Appropriate correction is required, for clarification of the record.

Further review of the Examiner's Answer filed March 17, 2009 finds that the grounds of rejection of the claims as provided under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified. The Examiner did not identify Claim 16 and 48. Correction to all Grounds of rejection for all claims is required

CONCLUSION

Accordingly, it is

ORDERED that the application is being electronically returned to the Examiner:

- 1) 1) to hold the Appeal Brief filed December 8, 2008, defective;
- 2) notify appellants to file a Supplemental Appeal Brief with a the correct information for the Grounds of Rejection and the Argument section of the Appeal Brief;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplement Brief;
- 4) vacate the Examiner's Answer mailed March 17, 2009, and mail a Supplemental Examiner's Answer with the correct information for the claims under the Grounds of Rejection; and

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5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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